



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	DEPT OF MEDICAL ASSISTANCE SERVICES
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30-10, 12VAC30-70, 12 VAC 30-80, 12 VAC 30-90
<b>Regulation title</b>	State Plan Under Title XIX of the Social Security Act; Methods And Standards For Establishing Payment Rates - Inpatient Hospital Services; Methods And Standards For Establishing Payment Rates; Other Types Of Care; Methods And Standards For Establishing Payment Rates For Long-Term Care
<b>Action title</b>	2010 Reimbursement and Provider Termination Changes
<b>Final agency action date</b>	
<b>Document preparation date</b>	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This regulatory action is intended to implement provider termination policy changes and reimbursement changes mandated by the Virginia General Assembly through the 2010 Appropriation Act to be effective July 1, 2010.

The state regulations that are affected by this action are:

12 VAC 30-10-690 (Exclusion of providers and suspension of practitioners and other individuals), 12 VAC 30-70-50 (Hospital Reimbursement System), 12 VAC 30-70-221 (General), 12 VAC 30-70-291 (Payment for Indirect Medical Education Costs), 12 VAC 30-70-

301 (Payment to disproportionate share hospitals), 12 VAC 30-70-351 (Updating rates for inflation), 12 VAC 30-70-391 (Recalibration and rebasing policy), 12 VAC 30-80-180 (Establishment of rate per visit) 12VAC30-190 (State agency fee schedule for RBRVS),12VAC30-80-200 (Prospective reimbursement for rehabilitation agencies) and 12VAC30-90-41 (Nursing facility reimbursement formula).

Exclusion of providers and suspension of practitioners and other individuals (12 VAC 30-10-690)

Senate Bill 193 of the 2010 General Assembly, enacted (effective 7/1/10), required DMAS to implement in regulation new provisions regarding provider termination in Code of Virginia 32.1-325(D) and (E). Formerly under this Code section DMAS could terminate a Medicaid provider convicted of a felony only after the provider had been sentenced. The 2010 General Assembly amended Code of Virginia 32.1-325(D) and (E) to authorize DMAS to terminate any Medicaid provider, “who has been convicted of *or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.*” The mandate required DMAS to implement conforming regulations within 280 days of the signing of the law. In response to this mandate DMAS has added a new subsection to 12 VAC 30-10-690 that states, “Provider terminations or exclusions shall be in accordance with Code of Virginia §§ 32.1-325(D) and 32.1-325(E).”

Reimbursement Changes Affecting Hospitals (12 VAC 30-70)

12VAC30-70-50 is being amended to eliminate the inflation adjustment for long-stay hospitals for State Fiscal Year (SFY) 2011 and SFY 2012 and to freeze ceilings in SFY 2011 and SFY 2012 at the same level as the ceilings for long stay hospitals with Fiscal Year Ends (FYE) of June 30, 2010. This change is mandated by Item 297.AAA of the Appropriation Act.

12VAC30-70-351 is being amended to rebase hospital diagnosis-related group (DRG) weights, case rates, psychiatric and rehabilitation per diem rates except that 2008 base year costs shall only be increased 2.58 percent in SFY 2011. No inflation adjustment shall be applied to hospital operating rates in SFY 2012. This change is mandated in Item 297.BBB.1.a of the Appropriation Act.

12VAC30-70-221, 12VAC30-70-301, 12VAC30-70-391, are being amended to change the inpatient hospital Medicaid utilization percent from 15 to 14 percent to determine Disproportionate Share Hospital (DSH) eligibility. DSH reimbursement is to be rebased for all hospitals with the final calculation being reduced by a uniform percentage so that SFY 2011 expenditures do not exceed SFY 2010 expenditures. No inflation adjustment shall be applied to hospital DSH payments in SFY 2012. This change is mandated by Item 297.BBB.1.b of the Appropriation Act.

12VAC30-70-351 is being amended to eliminate inflation for graduate medical education per resident amounts in SFY 2011 and SFY 2012 as directed by Item 297.BBB.1.c of the Appropriation Act.

12VAC30-70-351 and 12VAC30-70-391 are being amended to eliminate rebasing in SFY 2011 and inflation in SFY 2011 and SFY 2012 for freestanding psychiatric hospital facilities as directed in Item 297.CCC of the Appropriation Act.

12VAC30-70-291 is being amended to exclude certain out-of-state hospitals from receiving indirect medical education payments and 12VAC30-70-301 is being amended to reduce DSH payments to certain out-of-state hospitals. These changes are mandated in Item 297.TTT of the Appropriation Act.

Reimbursement Changes Affecting Other Providers (12 VAC 30-80)

12VAC30-80-180 is being amended to eliminate the SFY 2011 and SFY 2012 inflation adjustments for home health agencies. This change is mandated in Item 297.FFF of the Appropriation Act.

12VAC30-80-190 is being amended to reduce rates for procedure codes determined under Resource Based Relative Value System (RBRVS) (these codes are billed by physicians and other practitioners) by 3 percent in SFY 2011. In SFY 2012, rates will be reduced by 4 percent from what they would have been without the 3 percent reduction (an additional 1 percent reduction). This change is mandated in Item 297. CCCC of the Appropriation Act.

12VAC30-80-200 is being amended to eliminate the SFY 2011 and SFY 2012 inflation adjustments for outpatient rehabilitation agencies as mandated by Item 297.GGG of the Appropriation Act.

Reimbursement Changes Affecting Nursing Facilities (12 VAC 30-90)

12VAC30-90-41 is being amended to eliminate rebasing in SFY 2011 and inflation in SFY 2011 and SFY 2012 as directed by Item 306.DDD1.a. Nursing facility and specialized care ceilings shall be frozen at the same level as providers with fiscal year ends of June 30, 2010.

This action meets the exemption provided by the *Code of Virginia 2.2-4006 (A) (4)(a)* because it conforms these attached regulations to the requirements of the 2010 *Acts of the Assembly* and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of these mandated requirements.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

I hereby approve the foregoing Agency Background document with the attached amended regulation pages *State Plan Under Title XIX of the Social Security Act 12VAC30-10-690, Methods and Standards for Establishing Payment Rates-Inpatient Hospital Services (12VAC30-70-50, 12VAC30-221, 12VAC30-70-291, 12VAC30-70-301, 12VAC30-70-351, 12VAC30-70-391; Methods and Standards for Establishing Payment Rates-Other Types of Care 12VAC30-80-200, 12VAC30-80-180, 12VAC30-80-190, and Methods and Standards for Establishing*

*Payment Rates-Long Term Care, 12VAC30-90-41, for the 2010 Reimbursement and Provider Termination Changes and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4012, of the Administrative Process Act. I hereby certify that these regulations are full, true, and correctly dated.*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Cynthia B. Jones, Acting Director  
Dept. of Medical Assistance Services

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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These changes do not strengthen or erode the authority or rights of parents in the education, nurturing, and supervision of their children; or encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents. It does not strengthen or erode the marital commitment, but may decrease disposable family income depending upon which provider the recipient chooses for the item or service prescribed.